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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,928	03/14/2000	Keith Ainsley	0132-005	8974

7590 06/05/2002

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EXAMINER
WARE, TODD

ART UNIT	PAPER NUMBER
1615	

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/524,928	Applicant(s) AINSLEY, KEITH	
	Examiner Todd D Ware	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 March 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4,9,11-13,15 and 16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,9,11-13,15 and 16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☒ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Receipt of request for extension of time (granted), and amendment all filed 3-21-02 is acknowledged. Claims 1, 4, and 9 have been amended as requested. Claims 1, 4, 9, 11-13, 15 and 16 are pending.

Continued Prosecution Application

The request filed on 3-21-02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/524,928 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 4, 9, 11-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collora et al (5,896,692; hereafter '692).

'692 discloses a scent lure for animals such as white tail deer, moose, or elk comprising animal urine wherein the urine is collected from more than one animal (abstract; C 2, L 1-30; claims). The urine collected is from animals in estrus or animals in rut and is collected using a urine-gathering stall. '692 does not specifically state that the contemplated animals are caribou or mule deer, however it would have been

obvious to one skilled in the art at the time of the invention to formulate animal scent attractants for caribou or mule deer as they belong to the same family.

3. Claims 1, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christenson, II (4,944,940; hereafter '940).

'940 teaches animal scent attractants comprising urine for attracting animals such as deer. '940 also teaches that the collected urine for the attractant is obtained from one individual animal. It is submitted that an animal scent attractant wherein the urine is obtained from one animal would not attract an animal differently from one wherein the urine is obtained from two animals. Stated differently, absent a demonstration of criticality, it is submitted that urine collected from two animals is not critical over urine collected from one animal.

4. Claims 1, 4, 9, 11-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (5,672,342; hereafter'342).

'342 teaches animal scent attractants comprising urine for attracting animals such as deer. '342 also teaches that the collected urine for the attractant is obtained from one individual animal the urine is collected using urine-gathering stalls. It is submitted that an animal scent attractant wherein the urine is obtained from one animal would not attract an animal differently from one wherein the urine is obtained from two animals. Stated differently, absent a demonstration of criticality, it is submitted that urine collected from two animals is not critical over urine collected from one animal.

5. Claims 1, 4, 9, 11-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christenson, II (4,944,940; hereafter '940) in view of Collora et al (5,896,692; hereafter '692).

6. '940 is relied upon for all that it teaches as stated previously. '940 does not teach a method of collecting the urine.

'692 is relied upon for all that it teaches as stated previously. More specifically, '692 is relied upon for teaching a method of collecting urine for an animal scent attractant.

Accordingly, it would have been obvious to one skilled in the art at the time of the invention to collect the urine for the animal scent attractants of '940 with the method taught in '692 with the motivation of providing an effective means for collecting urine for an animal scent attractant.

Response to Arguments

7. Applicant's arguments filed 3-21-02 have been fully considered but they are not persuasive. Applicant's argues that the instant claims show unexpected results based upon the evidence provided in the Declaration under 37 CFR 1.132 of paper # 6, filed 7-11-01. However, applicant's argument is not persuasive. The prior art recognizes the natural occurrence that male deer monitor scrapes and protect a breeding area where female deer in heat are located while keeping track of the female deer coming into heat. Therefore, the difference demonstrated by applicant is considered a matter of degree

and not of kind. Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made. The process of making claims are allowable if limited to gathering urine from two female deer.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd D Ware whose telephone number is (703) 305-1700. The examiner can normally be reached on 8:30 AM - 6 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on (703)308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

tw
May 31, 2002

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600